



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,776	08/19/2005	Marina Dupcinov	3670-57	6329
23117 7590 09/26/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER YOUNG, JANELLE N	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 09/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/528,776

Applicant(s)

DUPCINOV ET AL.

Examiner

Janelle N. Young

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 5-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed July 5, 2007 have been fully considered but they are not persuasive.

The cited art still reads on the amendment limitation. See rejection below.

### *Response to Amendment*

#### *Claim Objections*

2. Claims 5 and 6 are objected to because of the following informalities: They are typo, making them duplicates of claims 2 and 3. The claims read "**The method of claim 1**" they should read "**The method of claim 4**"

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the particular term or limitation "**may be**" renders the claim indefinite, because "**may be**" does not state to add the second node to the table if the signal strength exceeds the second predetermined comparison level.

Art Unit: 2618

4. Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3 and 6 contain the trademark/trade name IEEE 802.11. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a wireless communications protocol and, accordingly, the identification/description is indefinite.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuemiller et al. (US Patent 7180875) and further in view of Balogh (US Pub 2001/0024953).

As for claim 1, Nuemiller et al. teaches a method for use by a first node in an ad-hoc Wireless Local Area Network (WLAN) which first node maintains a table of other nodes within the network which can be used for forwarding messages within the network (Abstract; Col. 3, line 48-Col. 4, line 29; Col. 5, line 39-Col. 6, line 8; Col. 6, lines 17-43 of Nuemiller et al.) receiving a first signal from a second node (Col. 1, lines 29-50 and Col. 5, line 39-Col. 6, line 43 of Nuemiller et al.).

What Nuemiller et al. does not explicitly teach is the comparison of predetermined level/conditions.

However, Balogh teaches a an ad-hoc Wireless Local Area Network (WLAN) comprising of: analyzing the first signal to determine its strength (Page 1, Para 0006-0007 of Balogh); if the second node is listed in the table maintained by the first node, comparing the signal strength to a first predetermined comparison level; if the second node is not list in the table, comparing the signal strength to a second predetermined comparison level (Page 1, Para 0007-0009 and Page 4, Para 0035 of Balogh); and signal levels of the first and the second access point are compared and it is checked if the difference of signal levels of the first access point and the second access point is above the pre-determined signal level limit; which reads on claimed if the signal strength exceeds either the first or second predetermined comparison level, the first node decides that the second node may be used in the table (Pages 1-2, Para 0010 of Balogh), the second access point with better connection attributes; which reads on claimed wherein the second predetermined comparison level is greater than the first predetermined comparison level (Page 6, Para 0050 of Balogh).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate the equipment for supporting mobility in telecommunication system, as taught by Balogh, in the method for distribution of routes for routing data packets in Ad-Hoc networks of Nuemiller et al., because Nuemiller et al. already teaches messaging type selected by a mobile terminal (or node) varies based on the mobility of the communicating terminals (Col. 8, lines 26-67 of Nuemiller et al.).

The motivation of this combination would be capable of effectively and efficiently handling fading between mobile wireless user terminals of a packet-switched network with minimal overhead and packet loss in a communications network, as taught by Nuemiller et al. in Abstract. The incorporation would facilitate the mobility of users in a telecommunication system with a plurality of networks (Page 1, Para 0001 of Balogh).

As for claim 2, Nuemiller et al. teaches a method for use by a first node in an ad-hoc Wireless teaches a method for use by a first node in an ad-hoc Wireless Local Area Network (WLAN) which first node maintains a table of other nodes within the network which can be used for forwarding messages within the network, applied in an Ad-Hoc On-demand Distance Vector (AODV) system (Col. 7, lines 10-17 and Col. 8, lines 10-25 of Nuemiller et al.).

As for claim 3, Balogh teaches a method for use by a first node in an ad-hoc Wireless Local Area Network (WLAN) which first node maintains a table of other nodes within the network which can be used for forwarding messages within the network, applied in an IEEE 802.11 – type system (Fig. 1 and Page 2, Para 0018 & 0021-0022 of Balogh).

Art Unit: 2618

Regarding claim 4, see explanation as set forth regarding claim 1 (method claim) because the claimed first node in an ad-hoc Wireless Local Area Network (WLAN) would perform the method steps.

Regarding claim 5, see explanation as set forth regarding claim 2 (method claim) because the claimed first node in an ad-hoc Wireless Local Area Network (WLAN) would perform the method steps.

Regarding claim 6, see explanation as set forth regarding claim 3 (method claim) because the claimed first node in an ad-hoc Wireless Local Area Network (WLAN) would perform the method steps.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2618

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY  
September 12, 2007

  
**NAY MAUNG**  
SUPERVISORY PATENT EXAMINER